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July 30, 2013

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

RE: *In the Matter of Promoting Interoperability in the 700 MHz Commercial Spectrum*
WT Docket No. 12-69
Notice of *Ex Parte* Communications

Dear Ms. Dortch:

United States Cellular Corporation ("U.S. Cellular"), through its counsel Skadden, Arps, Slate, Meagher & Flom LLP, submits this response to comments submitted by AT&T Services, Inc. ("AT&T") in connection with its July 3, 2013, *ex parte* meeting with representatives of the Office of General Counsel and the Wireless Telecommunications Bureau of the Federal Communications Commission ("FCC" or the "Commission") related to restoring interoperability in the Lower 700 MHz band. The record in this proceeding confirms that restoring interoperability unquestionably serves the public interest by decreasing consumer costs, promoting efficient use of the spectrum, and increasing the availability of mobile equipment and service options.

As discussed more fully below, it is incontrovertible that the Commission has the legal authority to restore interoperability in the Lower 700 MHz band under the Communications Act of 1934 (the "Act" or the "Communications Act"). First, under Title III of the Act ("Title III") the Commission is vested with "expansive powers" and a "comprehensive mandate" to regulate

the use of spectrum in the public interest.[1] Second, the Commission is authorized to issue regulations in the public interest even if they indirectly have an impact on device design, as it has demonstrated in the past. Third, the Commission has general rulemaking authority sufficient to modify classes of licenses and require interoperability. Fourth, specific sections of Title III, including Sections 303, 316 and others, provide plain, substantive grants of authority for provider requirements. As is unmistakably apparent – and contrary to AT&T's assertions – restoring interoperability in the Lower 700 MHz band is well within the legal authority of the Commission.

Any suggestion that the FCC lacks jurisdictional authority to restore interoperability in the 700 MHz spectrum band is thus undoubtedly incorrect. If for some reason the FCC came to this conclusion, it would represent a sharp break in a longstanding set of precedents that have, over many years, established the Commission's legal and practical authority to regulate the use of the wireless spectrum in the public interest. Such a precedent-shattering result is without merit and would pose serious threats to the FCC's efficacy in the future.

The Commission's Authority is Properly Broadly Construed

The Commission's general authority under the Communications Act is broad.[2] AT&T's suggestion that the Commission must demonstrate an "explicit grant of authority" to achieve restoration of Lower 700 MHz band interoperability not only turns the Commission's general authority on its head, but ignores the well-trod history of Commission action under Title III.[3]

Title III vests the Commission with "expansive powers" and a "comprehensive mandate" to regulate the use of spectrum in the public interest.[4] Under Title III, the Commission is authorized to "encourage the larger and more effective use of radio in the public interest."[5] This authorization includes a comprehensive mandate to make radio services more effective.[6] The Commission has not been reluctant to exercise this authority. For example, in 2011, the Commission's second data roaming order required facilities-based carriers to offer data roaming to other carriers on commercially reasonable terms and conditions under the Commission's general Title III authority, as well as under specific provisions such as Sections 301, 303, 304, 309, and 316 of Title III and Section 706 of the Act.[7] Likewise, in its recent order requiring wireless carriers to implement a bounce-back requirement in connection with text-to-911

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1 *Nat'l Broad. Co. v. United States*, 319 U.S. 190, 219 (1943).

2 *Cellco P'ship v. FCC*, 700 F.3d 534, 537 (D.C. Cir. 2012).

3 *See* Letter from David L. Lawson, Sidley Austin LLP, on behalf of AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC at Attachment, p. 5 (July 8, 2013) ("*AT&T Ex Parte*").

4 *Nat'l Broad. Co.*, 319 U.S. at 219.

5 47 U.S.C. § 303(g).

6 *Cellco P'ship*, 700 F.3d at 542.

7 Data Roaming Second Report and Order, 26 FCC 5411 (2011) at 5439-43 (paragraphs 61-64); *see infra*, p. 6-9.

capabilities, the Commission expressed confidence that it was authorized to proceed under its general Title III authority or specific delegations under Sections 301, 303, 307, 309, and 316 – whether taken together or individually.[8]

Moreover, the Commission's authority, both generally under Title III and specifically under particular provisions, is bolstered by its established right to promulgate regulations that are "'reasonably ancillary to the . . . effective performance of its statutorily mandated responsibilities'" under Section 4(i) of the Act.[9] This is undeniable, ancillary authority to move past the marked boundaries of the Commission's other designated authorities.

With this background in mind, AT&T's claim that the Commission lacks legal authority to take the action contemplated here is itself without legal support.[10] Far from stepping "well beyond the Commission's statutory authority,"[11] an action restoring interoperability in the Lower 700 MHz band is well within the legal authority of the Commission – fitting comfortably within its respective general Title III, specific Title III provision-derived, and ancillary authorities.

The Commission is Authorized to Issue Regulations in the Public Interest that may Indirectly Affect Device Design

The Commission is authorized to issue – and has in the past issued – regulations in the public interest that indirectly affect or influence device designs, including mobile wireless handsets. An argument that the Commission must acquire an "explicit grant of authority" to do so erroneously constrains the Commission's authority.[12] This is an argument that relies upon a misapplication of both Commission regulations and case law; that ignores the Commission's repeated implementation of regulations and requirements on wireless providers under Title III to advance the public interest; and that precludes the Commission from imposing future obligations on wireless providers that would have an impact, in any way, on the design and operation of mobile wireless handsets.

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[8] The Commission applied new rules to "all Commercial Mobile Radio Service (CMS) providers *and* providers of interconnected text messaging services (*i.e.*, all providers of software applications that enable a consumer to send text messages to all or substantially all text-capable U.S. telephone numbers and receive text messages from the same) . . ." *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications*, Report and Order, 28 FCC Rcd 7556, 7557 (2013) ("*Text-to-911 Order*") (emphasis added).

[9] *Comcast Corp. v. FCC*, 600 F.3d 642, 644 (D.C. Cir. 2010) (quoting *American Library Association v. FCC*, 406 F.3d 689, 692 (D.C. Cir. 2005)).

[10] In support of its charge that the Commission lacks "general, roving authority to regulate wireless services" in the public interest, AT&T relies upon *Motion Picture Ass'n of Am., Inc. v. FCC*, 309 F.3d 796, 806 (D.C. Cir. 2002). This reliance, however, is misplaced as the regulatory provisions examined in *Motion Picture Ass'n of Am., Inc.* are irrelevant to the issue of authority here. Moreover, the case is a content-driven analysis with no relation to the radio and wireless service at issue.

[11] *AT&T Ex Parte* at Attachment, p. 8.

[12] *AT&T Ex Parte* at Attachment, p. 5.

Requiring the Commission to demonstrate an explicit grant of authority with respect to consumer devices before implementing a proposed regulation that may have an ancillary impact on such devices would excessively constrain the Commission's authority under Title III, and would misapply both regulations and case law. AT&T inaccurately suggests that Title III grants the Commission a mere slip of authority to adopt regulations affecting wireless handsets. AT&T's interpretation would permit regulations in only the most specific of circumstances, where the Commission seeks to "regulate devices *only* to ensure purity of signal and to prevent interference."[13] AT&T argues that, because the interoperability requirement falls outside those narrow regulatory silos, implementing such a regulation would be an impermissible attempt by the Commission to *directly* regulate the design of mobile devices. This is, of course, demonstrably wrong. The only direct regulation resulting from the imposition of an interoperability requirement flowing from this proceeding would be upon license holders like AT&T and others – *not* handset devices or their manufacturers. To be sure, this requirement may ultimately affect handset design in an effort to promote interoperability between devices and networks, but that effect would be indirect. The core purpose of such a requirement would be to establish technical requirements for the operations of license holders within a licensed spectrum band, not handset designers. Establishing such requirements is at the very heart of the authorities granted to the Commission under Title III.

AT&T's reliance on *American Library Association v. FCC* in support of its arguments is misplaced given the circumstances at hand.[14] In *American Library*, the United States Court of Appeals for the District of Columbia invalidated an FCC order regulating television receiver broadcast flag technology because it proposed to regulate "consumer electronic products" in situations where those devices were not "engaged in the process of radio or wire transmission."[15] The interoperability proposal at issue here is plainly distinguishable. First, the interoperability rules will regulate the operation of a service over a specific band of spectrum, not the operation of any set of consumer electronics products. The proposed rule would merely require that operators follow certain technical guidelines. Any effect on devices will be purely ancillary. Second, even assuming the proposed rule constituted a direct regulation of consumer devices, *American Library* states that the FCC may regulate such devices when "engaged in the process of radio or wire transmission."[16] It is this exact set of device processes – those that fall within the exception highlighted in *American Library* – that are implicated by the imposition of interoperability requirements.

Requiring the Commission to identify an explicit grant of authority over the design of wireless handsets before taking any action that might affect handset design willfully ignores the

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[13] *Id*. (emphasis added).

[14] 406 F.3d 689 (D.C. Cir. 2005).

[15] *Id*. at 700.

[16] *Id*. at 706 ("It is enough here for us to find that the Communications Act of 1934 does not indicate a legislative intent to delegate authority to the Commission to regulate consumer electronic devices that can be used for receipt of wire or radio communication when those devices are not engaged in the process of radio or wire transmission. That is the end of the matter.").

Commission's repeated implementation of regulations and requirements on wireless providers under Title III. There is nothing new or ground-breaking in the Commission taking such action. In fact, the FCC has on several occasions imposed regulations and requirements indirectly affecting the design of mobile wireless devices.

For example, in its 1981 Order commencing the licensing of cellular services, the Commission used its broad Title III authority, as well as its specific authority under Section 303, to require the first cellular licensees to operate across the entirety of the allocated 40 MHz of spectrum.[17] This was an effort "to insure full coverage in all markets and compatibility on a nationwide basis."[18] Much like the interoperability proposal here, the 1981 requirement was imposed on the first cellular license holders and not the manufacturers of mobile wireless handsets. Nevertheless, the requirement did indirectly affect the design of the first mobile wireless handsets by requiring the handsets to work across the entire allocated band (even if a given carrier did not hold spectrum in a certain part of the band).

Similarly, in a series of decisions since 1996, the Commission has imposed broad mandates on wireless providers, as spectrum licensees, to implement basic 911 and enhanced 911 (E911) services.[19] These decisions have repeatedly relied on the Commission's Title III public interest provisions as well as independent authorities granted under Section 303(r) to require wireless providers to offer 911 and E911 services. Over time, these requirements have significantly affected the design and operation of mobile wireless handsets by requiring the incorporation of certain technologies and features into handsets.[20]

The aforementioned are far from the only examples. The Commission has adopted scores of other regulations that have indirectly affected the design of wireless handsets, including regulations governing hearing aid compatibility, RF emissions and analog service retirement. In each, the Commission properly relied on its broad Title III powers, and specific delegations of authority under Title III, to impose requirements that were necessary to promote important public interest objectives. And even though the Commission's regulation of wireless services and licensees in all of the examples listed above affected the design and operation of wireless handsets in some manner, no court has ever found that the FCC impermissibly regulated wireless devices. The proposed interoperability restoration is of a kind with these past actions. And if – under AT&T's logic – the interoperability proposal is an impermissible regulation because of a possible indirect impact on the design of wireless handsets, then AT&T must believe these like FCC actions were also impermissible.

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17 *Cellular Order*, 86 FCC 2d 469 (1981).

18 *Id*. at ¶ 26.

19 *See, e.g., Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 18676, 18679 ¶¶ 5, 10 (1996) (relying on Sections 301 and 303(r) to impose E911 rules on CMRS providers).

20 *See Text-to-911 Order*, 28 FCC Rcd 7591-92.

Finally, AT&T wants the FCC to accept a requirement that there be an explicit grant of authority under Title III before imposing future obligations on wireless providers that would affect the design and operation of mobile wireless handsets. In practice, this would be unworkable. For the Commission to exercise its Title III authority under such a requirement, it would need to independently examine whether the proposed action in any way affected the design of wireless handsets. If the answer is yes, the action would not be permissible and the Commission would be prohibited from moving forward. Such a result would severely impair and dangerously delay the Commission's ability to promote the public interest.

The Commission Has General Rulemaking Authority Sufficient to Modify Classes of Licenses and Require Interoperability

The Commission has general rulemaking authority, under which it has the power to modify classes of licenses, including mobile wireless licenses, and require interoperability. Exercise of such authority is appropriate where rules have prospective effect and class-wide applicability. This is not a new and novel practice. Indeed, the Commission has even modified existing cellular licenses under its rulemaking authority in the past. Notably, these modifications have included rules of general applicability, such as technical requirements for cellular licenses.[21] This is independent of any possible grounding of such authority in the modification authorities granted under Section 316.[22]

Despite AT&T's ungrounded and feverish suggestion that the Commission is seeking to "force AT&T," and only AT&T, to modify its devices, there are numerous other carriers with Lower 700 MHz Block A, B and C licenses to whom any new rules would also apply. Adopting rules or proposals that apply to classes of license holders is an ordinary, regular occurrence for the Commission. For example, the Commission is engaged in an ongoing proceeding that seeks to combat contraband wireless device use in correctional facilities.[23] The proposal requires wireless providers to terminate service to contraband devices when technically feasible.[24] Similarly, the Commission has an ongoing 800 MHz Cellular Licensing Reform proceeding, which would create geographic overlay licenses to streamline Commission licensing procedures.[25] In its December 2012 order altering service rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz bands, the Commission allowed operators in the 2

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[21] *Committee for Effective Cellular Rules v. FCC*, 53 F.3d 1309, 1318-1320 (D.C. Cir 1995).

[22] *Id*. at 1321; *see infra*, p. 6-9.

[23] *In re Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, Notice of Proposed Rulemaking, 28 FCC Rcd 6603 (2013).

[24] *Id*. at 6606.

[25] *In re Amendment of Parts 1 and 22 of the Commission's Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area*, Notice of Proposed Rulemaking and Order, 27 FCC Rcd 1745 (2012). AT&T has been outspoken in its support of this particular rulemaking, and has refrained from suggesting that the resulting large-scale modification of existing licenses required to promulgate the rule would be unauthorized. *Id*. at 1752.

GHz Mobile Satellite Service (MSS) spectrum band to use Ancillary Terrestrial Component (ATC) authorities to provide terrestrial mobile services.[26] And finally, in a May 2012 Report and Order intended to improve spectrum use efficiency, the FCC removed a legacy channelization scheme and bandwidth limitations on 800 MHz Specialized Mobile Radio (SMR) licensees, thereby allowing those license holders to more efficiently use their spectrum allocations.[27] As with the proposed interoperability rule, these Commission actions applied to multiple licensees within particular classes, and demonstrated the breadth of the Commission's general rulemaking authority. That authority is properly applied here and plainly establishes that restoring interoperability of the Lower 700 MHz band is well within the Commission's jurisdiction.

Specific Sections of Title III Provide Plain, Substantive Grants of Authority for Provider Requirements

The Commission has recognized that multiple provisions of Title III, including most prominently Sections 303 and 316, can provide substantive grants of authority for requirements placed on providers, including through rulemaking that modifies existing licenses.[28] These particular designations of authority in the Communications Act afford the Commission the ability to promulgate an interoperability rule once it determines that such a rule is in the public interest. Any of these provisions, standing alone or in combination, provide the Commission with ample authority to adopt the requested rule. Given the many authorities applicable to the proposed regulation, as well as the Commission's general authority addressed above, AT&T's claims that the Commission lacks legal authority to impose interoperability requirements ring especially weak.[29]

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[26] *In re Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands*, Report and Order and Order of Proposed Modification, 27 FCC Rcd 16102 (2012).

[27] *In re Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees*, Report and Order, 27 FCC Rcd 6489 (2012).

[28] *Text-to-911 Order*. 28 FCC Rcd at 7587-92.

[29] A number of other sections of the Communications Act outside of Title III also provide grounds for supporting an interoperability requirement. As the Commission itself has noted, other providers have made these arguments in the record of this proceeding. *See Promoting Interoperability in the 700 MHz Commercial Spectrum*, Notice of Proposed Rulemaking, 27 FCC Rcd 3521, 3545 (2012). These authorities include:

(a) Section 706(a) and (b) of the 1996 Act, which require the FCC to encourage the deployment of advanced services to all Americans by removing barriers to infrastructure investment, including barriers to new entrants;

(b) Section 201(b), which prohibits unjust or unreasonable practices in connection with communications services, including contractual arrangements between wireless providers such as AT&T and equipment providers;

(c) Section 202(a), which prohibits unjust or unreasonable discrimination; and

(d) Section 1, which directs the Commission to establish policies that promote the provision of communications service to all people of the United States, without discrimination.

Section 303 of Title III provides the Commission with ready legal authority to act on the interoperability proposal. In particular, Section 303(b) provides the Commission with the authority to "[p]rescribe the nature of the service to be rendered by each class of licensed stations." The Commission has repeatedly relied on this specific grant of authority to achieve a variety of important public interest objectives, a practice that has received court approval.[30] AT&T, however, mischaracterizes the Commission's determination of the operating characteristics of an FCC-created operating license band as a power play for "unbounded" control over a licensee's business management or policy. Simply put, efforts to regulate a license band are not the same as efforts to control a licensee's business.

AT&T attempts to cast Commission reliance on Section 303(b) in support of an interoperability requirement as an impermissible attempt to regulate the business of a licensee under Title III.[31] This effort , however, is in vain. As recently as 2012, the United States Court of Appeals for the District of Columbia rejected AT&T's position.[32] In *Cellco Partnership*, the court concluded that the U.S. Supreme Court's *FCC v. Sanders Brothers* decision "stands only for the uncontroversial proposition that the Commission lacks a general mandate to regulate a licensee's business *separate and apart* from the authority otherwise conferred by Title III."[33] Given that the Commission would implement the interoperability requirement pursuant to its Section 303(b) authority governing the nature of service rendered, AT&T's claims that such a requirement would result in unwarranted Commission authority over licensee business practices are unfounded.

The practical result of a Commission requirement that Band 17 providers interoperate with Band 12 would merely be a revision of the technical terms of service in the license blocks in which Band 17 services are provided. Such a regulation would not require license holders to operate over the entire band. It would also not require or result in the oversight of licensee business decisions by the Commission. While adjustments to a given license holder's set of compatible handsets may eventually be required, that fact does not vitiate the Commission's authority. The Commission has recently offered implicit agreement with this analysis, stating that Section 303(b) grants it authority to require wireless providers to terminate service to contraband wireless devices in correctional facilities, and in so doing to potentially require technical upgrades of those providers.[34]

Additional subsections under Section 303 also provide the Commission with the requisite legal authority. Section 303(g) separately provides the Commission with the authority to

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[30] *See, e.g., Cellco P'ship*, 700 F.3d at 542.

[31] *AT&T Ex Parte* at Attachment, p. 6-7.

[32] *Cellco P'ship*, 700 F.3d at 543 (citing *FCC v. Sanders Bros. Radio Station*, 309 U.S. 470, 475 (1940)).

[33] *Id*. (emphasis added).

[34] Included in this are technical upgrades that were explicitly contemplated as a potential consequence of any resulting order. *In re Promoting Technological Solutions To Combat Contraband Wireless Device Use In Correctional Facilities*, 28 FCC Rcd 6603, 6630 (2013).

"encourage the larger and more effective use of radio in the public interest." The Commission has used this authority for rules as varied as establishing a "finder's preference" for reassigning underused frequencies to notifying parties,[35] permitting sharing of clear channel frequencies,[36] deploying text-to-911 technologies,[37] and promoting commercially reasonable roaming.[38] In putting forward an interoperability requirement, the Commission will help to ensure the larger and more effective use of spectrum. Doing so assists with opening up the A Block and thus serves the underlying requirements of Section 303(g). Should the interoperability requirement fail to become a reality, much of the A Block spectrum will be underutilized, if used at all, to the detriment of consumers and competition. Section 303(r) similarly authorizes the Commission to make rules and regulations to carry out the provisions of Title III, while Section 301 also provides the Commission with general authority to provide for the use of radio channels by issuing licenses. .

Specific legal authority also exists – under Section 316 of Title III – for the Commission to take action on the interoperability proposal. Section 316 empowers the Commission to modify licenses where in the public interest, including rulemaking authority in support of such modifications.[39] Notably, there is no dispute that FCC licenses are issued subject to modification under the Communications Act. Along with other courts, the United States Court of Appeals for the District of Columbia has affirmed this view, holding that "the Commission has the unilateral authority, provided it gives notice to the licensee, to modify a license [under Section 316]. Broadly defined, [FCC licenses] confer the right to use the spectrum for a duration expressly limited by statute subject to the Commission's considerable regulatory power and authority."[40]

Other courts have held that the Commission's legal authority in modifying a license pursuant to Section 316 is nearly unlimited.[41] And contrary to AT&T's claims, these same courts and the Commission itself have noted that Section 316 contains no express limitations on *when* the Commission may modify a license.[42] In addition, the Commission's authority to

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35 *Kay v. FCC*, 393 F.3d 1339, 1342-44 (D.C. Cir 2005).

36 *Loyola University v. FCC*, 670 F.2d 1222, 1226 (D.C. Cir 1982).

37 *See Text-to-911 Order*, 28 FCC Rcd at 7591-92.

38 *See Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, Second Report and Order, 26 FCC Rcd 5411, 5442 (2011) ("*Data Roaming Order*").

39 *Cellco P'ship*, 700 F.3d at 542; *see also Celtronix Telemetry v. FCC*, 272 F.3d 585, 589 (D.C. Cir. 2001) (recognizing it as "undisputed that the Commission always retain[s] the power to alter the term of existing licenses by rulemaking.").

40 *Mobile Relay Associates v. FCC*, 457 F.3d 1, 12 (D.C. Cir 2006).

41 *California Metro Mobile Communications, Inc. v. FCC,* 365 F.3d 38 (D.C. Cir. 2004).

42 *Id*. at 45; *see also In re License of California Metro Mobile Communications, Inc.*, 17 FCC Rcd. 22974, 22975 (2002).

modify licenses extends to entire classes of licenses, not simply individual licenses.[43] For example, in *Community Television v. FCC*, the court upheld the Commission's Section 316 authority to rescind television broadcast licenses permitting analog television broadcasting and issue those licensees digital television broadcast licenses – a transition requiring significant hardware upgrades from license holders.[44] In its opinion, the court held that "the FCC ha[d] not wrought a fundamental change to the terms of th[e] permits and licenses" at issue.[45] AT&T would likewise face no fundamental change under the interoperability proposal as it would continue to operate on the same frequencies and pursuant to nearly all of the same technical rules.

Modification of the license terms under Section 316 to restore interoperability to the Lower 700 MHz band is particularly appropriate, given the change in technical circumstances since the time of the original issuance of the licenses. The Commission, U.S. Cellular, and numerous other carriers originally had every reason to believe that all Lower 700 MHz auction participants' handsets would interoperate over Band 12 at the time of the auction. Band 17 was proposed one month after the end of that auction.[46] The Band 12/17 interoperability issue could therefore not have been addressed in the original issuance of the license.

AT&T makes unmerited claims that "any 'public interest' benefits of such a modification are extremely speculative and likely nonexistent. . . ."[47] The Commission's own findings do not bear this out. In the *Interoperability NPRM*, the Commission noted its "longstanding interest in promoting the interoperability of mobile user equipment in a variety of contexts as a means to promote the widest possible deployment of mobile services, ensure the most efficient use of spectrum, and protect and promote competition."[48] Likewise, the overwhelming majority of commenters in both Commission proceedings concerning the interoperability requirement for the 700 MHz band have discussed the extensive benefits related to device interoperability, and the harms resulting from the lack of interoperability in the Lower 700 MHz band.[49]

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[43] *See Community Television v. FCC*, 216 F.3d 1133, 1140 (D.C. Cir. 2000).

[44] *Id*.

[45] *Id*. at 1141 (emphasis added).

[46] *Motorola, TS36.101: Lower 700 MHz Band 15 (now Band 17), 3GPP TSG RAN WG4 Meeting #47, RA 081108* (April 5-9, 2008).

[47] *See* Letter from Joseph P. Marx, Assistant Vice President, Federal Regulatory, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC at Attachment, p. 9 (June 26, 2013).

[48] *Interoperability NPRM*, 27 FCC Rcd at 3523, n. 5; *see also Amendment of the Commission's Rules to Establish New Personal Communications Services*, Memorandum Opinion and Order, 9 FCC Rcd 4957, 5021-22 (1994) (finding that interoperability would "deliver benefits to consumers and help achieve [the Commission's] objectives of universality, competitive delivery of PCS, that includes the ability of consumers to switch between PCS systems at low cost, and competitive markets for PCS equipment.").

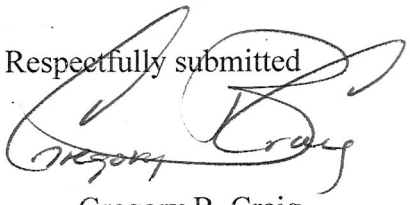
[49] *See* Comments and Reply Comments filed in RM-11592 on March 31, 2010 and April 30, 2010, respectively, and in WT Docket No. 12-69 on June 1, 2012 and July 16, 2012, respectively; *see also Interoperability NPRM*, 27 FCC Rcd at 3532 ("The record to date suggests that, unless mobile user equipment is capable of operating on

(cont'd)

The Commission Should Restore Interoperability to the Lower 700 MHz Band

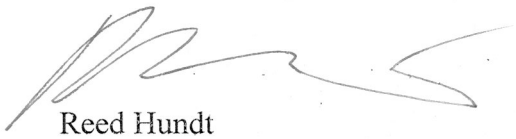
The statutory provisions that authorize the Commission to adopt an interoperability requirement for the Lower 700 MHz band are many, various and compelling. Without a doubt, adopting such a requirement serves the public interest; it will decrease consumer costs, promote efficient use of the spectrum, and increase the availability of mobile equipment and service options. For all these reasons, U.S. Cellular respectfully urges the Commission to adopt the interoperability requirement as soon as possible.

Respectfully submitted



Gregory B. Craig
Skadden, Arps, Slate, Meagher & Flom LLP
Counsel to United States Cellular Corporation

I have reviewed the attached submission of United States Cellular Corporation and endorse its conclusions.



Reed Hundt
REH ADVISORS

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cc: Chairwoman Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
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Louis Peraertz
David Goldman
Courtney Reinhard
Nicholas Degani
Grant B. Spellmeyer, Vice President, Federal Affairs and Public Policy,
United States Cellular Corporation

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all paired commercial Lower 700 MHz spectrum, the deployment of facilities-based mobile broadband networks could be hampered, particularly in rural and unserved areas.").